

AMENDED IN ASSEMBLY JUNE 30, 2014

AMENDED IN ASSEMBLY JUNE 2, 2014

AMENDED IN SENATE MAY 14, 2013

## SENATE BILL

**No. 702**

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**Introduced by Senator Anderson**

February 22, 2013

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An act to amend Section 538d of the Penal Code, relating to criminal law.

### LEGISLATIVE COUNSEL'S DIGEST

SB 702, as amended, Anderson. Criminal law: badges: impersonation.

Existing law makes it a crime for a person who is not a peace officer to impersonate a peace officer. Specifically, existing law makes it a misdemeanor *subject to punishment by up to 6 months imprisonment in a county jail, or a fine not exceeding \$1,000, or by both that imprisonment and fine*, for any person to willfully wear, exhibit, or use any badge, insignia, emblem, device, label, certificate, card, or writing that falsely purports to be authorized for use by a peace officer, as specified.

This bill would ~~increase the punishment for that offense to imprisonment in a county jail for up to one year, a fine up to \$2,000, or both that imprisonment and fine; provide that the fine for that offense shall not exceed \$2,000.~~ The bill would also require a local law enforcement agency in the jurisdiction that files charges against a person for a violation of these provisions to seize the item at issue. ~~The bill would prohibit a person convicted of a violation of these provisions from holding public office in this state.~~

~~By increasing the punishment for a crime and adding to the duties of local governmental entities, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes-no~~.  
State-mandated local program: ~~yes-no~~.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 538d of the Penal Code is amended to  
2 read:

3     538d. (a) Any person other than one who by law is given the  
4 authority of a peace officer, who willfully wears, exhibits, or uses  
5 the authorized uniform, insignia, emblem, device, label, certificate,  
6 card, or writing, of a peace officer, with the intent of fraudulently  
7 impersonating a peace officer, or of fraudulently inducing the  
8 belief that he or she is a peace officer, is guilty of a misdemeanor.

9     (b) (1) Any person, other than the one who by law is given the  
10 authority of a peace officer, who willfully wears, exhibits, or uses  
11 the badge of a peace officer with the intent of fraudulently  
12 impersonating a peace officer, or of fraudulently inducing the  
13 belief that he or she is a peace officer, is guilty of a misdemeanor  
14 punishable by imprisonment in a county jail not to exceed one  
15 year, by a fine not to exceed two thousand dollars (\$2,000), or by  
16 both that imprisonment and fine.

17     (2) Any person who willfully wears or uses any badge that  
18 falsely purports to be authorized for the use of one who by law is  
19 given the authority of a peace officer, or which so resembles the  
20 authorized badge of a peace officer as would deceive any ordinary  
21 reasonable person into believing that it is authorized for the use  
22 of one who by law is given the authority of a peace officer, for the  
23 purpose of fraudulently impersonating a peace officer, or of

1 fraudulently inducing the belief that he or she is a peace officer,  
2 is guilty of a misdemeanor punishable by imprisonment in a county  
3 jail not to exceed one year, by a fine not to exceed two thousand  
4 dollars (\$2,000), or by both that imprisonment and fine.

5 (c) (1) Except as provided in subdivision (d), any person who  
6 willfully wears, exhibits, or uses, or who willfully makes, sells,  
7 loans, gives, or transfers to another, any badge, insignia, emblem,  
8 device, or any label, certificate, card, or writing, which falsely  
9 purports to be authorized for the use of one who by law is given  
10 the authority of a peace officer, or which so resembles the  
11 authorized badge, insignia, emblem, device, label, certificate, card,  
12 or writing of a peace officer as would deceive an ordinary  
13 reasonable person into believing that it is authorized for the use  
14 of one who by law is given the authority of a peace officer, is guilty  
15 of a misdemeanor punishable by imprisonment in a county jail not  
16 to exceed ~~one year~~, *six months*, by a fine not to exceed two  
17 thousand dollars (\$2,000), or by both that imprisonment and fine,  
18 except that any person who makes or sells any badge under the  
19 circumstances described in this subdivision is subject to a fine not  
20 to exceed fifteen thousand dollars (\$15,000).

21 (2) A local law enforcement agency in the jurisdiction that files  
22 charges against a person ~~of~~ *for* a violation of paragraph (1) shall  
23 seize the badge, insignia, emblem, device, label, certificate, card,  
24 or writing described in paragraph (1).

25 ~~(3) Any person who is convicted of a violation of paragraph (1)~~  
26 ~~on or after January 1, 2015, shall be disqualified from holding~~  
27 ~~public office in this state.~~

28 (d) (1) The head of an agency that employs peace officers, as  
29 defined in Sections 830.1 and 830.2, is authorized to issue  
30 identification in the form of a badge, insignia, emblem, device,  
31 label, certificate, card, or writing that clearly states that the person  
32 has honorably retired following service as a peace officer from  
33 that agency. The identification authorized pursuant to this  
34 subdivision is separate and distinct from the identification  
35 authorized by Article 2 (commencing with Section 25450) of  
36 Chapter 2 of Division 5 of Title 4 of Part 6.

37 (2) If the head of an agency issues a badge to an honorably  
38 retired peace officer that is not affixed to a plaque or other  
39 memento commemorating the retiree's service for the agency, the

1 words “Honorably Retired” shall be clearly visible above,  
2 underneath, or on the badge itself.

3 (3) The head of an agency that employs peace officers as defined  
4 in Sections 830.1 and 830.2 is authorized to revoke identification  
5 granted pursuant to this subdivision in the event of misuse or abuse.

6 (4) For the purposes of this subdivision, the term “honorably  
7 retired” does not include an officer who has agreed to a service  
8 retirement in lieu of termination.

9 (e) (1) Vendors of law enforcement uniforms shall verify that  
10 a person purchasing a uniform identifying a law enforcement  
11 agency is an employee of the agency identified on the uniform.  
12 Presentation and examination of a valid identification card with a  
13 picture of the person purchasing the uniform and identification,  
14 on the letterhead of the law enforcement agency, of the person  
15 buying the uniform as an employee of the agency identified on the  
16 uniform shall be sufficient verification.

17 (2) Any uniform vendor who sells a uniform identifying a law  
18 enforcement agency, without verifying that the purchaser is an  
19 employee of the agency, is guilty of a misdemeanor, punishable  
20 by a fine of not more than one thousand dollars (\$1,000).

21 (3) This subdivision shall not apply if the uniform is to be used  
22 solely as a prop for a motion picture, television, video production,  
23 or a theatrical event, and prior written permission has been obtained  
24 from the identified law enforcement agency.

25 ~~SEC. 2. No reimbursement is required by this act pursuant to~~  
26 ~~Section 6 of Article XIII B of the California Constitution for certain~~  
27 ~~costs that may be incurred by a local agency or school district~~  
28 ~~because, in that regard, this act creates a new crime or infraction,~~  
29 ~~eliminates a crime or infraction, or changes the penalty for a crime~~  
30 ~~or infraction, within the meaning of Section 17556 of the~~  
31 ~~Government Code, or changes the definition of a crime within the~~  
32 ~~meaning of Section 6 of Article XIII B of the California~~  
33 ~~Constitution.~~

34 ~~However, if the Commission on State Mandates determines that~~  
35 ~~this act contains other costs mandated by the state, reimbursement~~  
36 ~~to local agencies and school districts for those costs shall be made~~  
37 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
38 ~~4 of Title 2 of the Government Code.~~